

August 14, 2017

**YAKAMA NATION
DEPARTMENT OF NATURAL RESOURCES
FISHERIES SUPERFUND SECTION PORTLAND HARBOR SUPERFUND**

GRANT PROPOSAL AND DESCRIPTION OF WORK

PROJECT NAME: PORTLAND HARBOR SUPERFUND SITE, OREGON

TIMELINE: OCTOBER 1, 2017 TO DECEMBER 31, 2018 – GRANT PERIOD

BUDGET: \$565,000 SUPPLEMENTAL REQUEST (2nd Amendment to FAIN 01J13201))

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LEGAL FRAMEWORK

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law is used to clean up abandoned or uncontrolled hazardous waste sites. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites and provided for liability of persons responsible for releases of hazardous waste at these sites. The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response.
- Long-term remedial response actions, that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life threatening.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priority List (NPL). The NPL is a list of national priority sites with known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories.

CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986. SARA amended CERCLA on October 17, 1986. SARA reflected EPA's experience in administering the complex Superfund program during its first six years and made several important changes and additions to the program. SARA:

- stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites;
- required Superfund actions to consider the standards and requirements found in other State and Federal environmental laws and regulations;

- provided new enforcement authorities and settlement tools;
- encouraged trustees to actively pursue natural resources damages;
- acknowledged Indian tribes as authorized trustees and allowed for tribal involvement in every phase of the Superfund program; and
- increase the focus on human health problems posed by hazardous waste sites.

SARA also required EPA to revise the Hazard Ranking System (HRS) to ensure that it accurately assessed the relative degree of risk to human health and the environment posed by uncontrolled hazardous waste sites that may be placed on the NPL.

The Yakama Nation is leveraging CERCLA, other federal statutes, and court decisions to cleanup and restore the Columbia River and its tributaries. The Yakama Nation is a natural resource trustee and has a sovereign responsibility to safeguard the health and welfare of its enrolled members. That responsibility includes the protection of its members from exposure to hazardous substances in the food chain, and through direct contact during treaty resource harvest activities. The tribe also has a sovereign responsibility and authority as a natural resource trustee to restore, rehabilitate, and/or replace natural resources that have been lost or injured by releases of hazardous substances from facilities, including state-led cleanup facilities.

YAKAMA NATION TREATY AND RESOURCES

The Yakama Nation's interests, both on the Reservation and surrounding areas, are protected by the Treaty of 1855 (12 Stat. 951); federal law; and policies governing government-to-government collaboration and consultation. The Yakama Nation has witness the desecration of the Columbia River and its watershed; flooded by dams, polluted by industry, modified by development, and dredged for shipping. In this era of degradation, the Yakama Nation fought from local courts to the U.S. Supreme Court, to protect their treaty rights and to save the salmon from extinction.

The Yakama Nation interests within the Columbia River Basin, including reserved lands and rights covering over twenty million acres throughout its traditional homeland, now in the states of Washington and Oregon. Those interests include protecting and preserving the fisheries resource, and other natural resources, on which its citizens currently and traditionally rely.

The oral history of the Yakamas tells of the sacrifices provided by the salmon who unselfishly gave of itself for the physical and spiritual sustenance of human beings. In return for these sacrifices the Yakamas have an obligation to protect, honor, and give thanks to the salmon.

Outside forces have reduced salmon numbers and created a polluted and life-threatening environment for fish and wildlife to live. For decades, Yakamas have fought to protect salmon and fish habitat. Today and into the future, Yakamas will continue honoring our obligation. Cleanup and restoration of contaminated sites in the Columbia River Basin is important for sustaining the cultural practices of Yakama Nation's members.

PORTLAND HARBOR SUPERFUND SITE

Portland Harbor is a particularly complex Site, with over 150 contaminated upland sites (many of which would qualify for NPL status individually) currently and/or historically contributing to in-river contamination. For the Portland Harbor Superfund Site (Site), the Yakama Nation is committed to a cleanup that is protective of Yakama People and its treaty resources in the lower Willamette and Columbia Rivers. The Yakama Nation will continue to work cooperatively with all federal, state and tribal partners, as well as with the responsible parties, who are committed to a cooperative cleanup approach. A tremendous amount of technical work must be completed to provide the quality data and information needed to design EPA's selected remedy plan and then monitor its effectiveness. The Yakama Nation's focus at the Portland Harbor Superfund Site process over the

next fiscal year will be planning of ROD implementation, monitoring plans, background and upland source evaluation and control, and pre-design and remedial design development phases. Throughout this process, the Yakama Nation will continue to focus attention on Portland Harbor impacts to the lower Columbia River and engage in discussion of how to best understand and address those impacts.

The timeframe for this work plan is October 1, 2017 to December 31, 2018 (5 quarters). The Yakama Nation budget for planned response activities during this timeframe is \$565,000. The planned Portland Harbor response activities include:

- **Engage in Portland Harbor Record of Decision (ROD) implementation** – The Yakama Nation expended a significant amount of time and energy to ensure EPA fully understood our position and concerns on the Portland Harbor ROD and the expectation the in-river cleanup be protective of Yakama Treaty resources and rights. However, Yakama Nation is concerned the cleanup decision is not protective of Yakama Treaty resources and rights. The ROD leaves behind a significant volume and acreage of toxic, persistent, and bioaccumulative residual contamination post-cleanup. Instead of adequate removal, there will be a reliance on natural recovery (scouring and deposition) and institutional controls with an assumption that protection of the environment and human health will be reached sometime in the future. The Yakama Nation plans to maintain meaningful and substantial involvement in anticipated technical questions and dialogue with EPA on all matters related to the implementation of the ROD including remedy design and sampling. This meaningful and substantial involvement will allow Yakama Nation and EPA (and others) to engage on how to optimize and measure protectiveness in light of Yakama Nation's concerns regarding protectiveness of Treaty resources.
- **Analysis of Background Sources** – Anthropogenic background contamination is a concern and will likely impact the effectiveness of cleanup. The Yakama Nation will evaluate background conditions to provide EPA with meaningful and substantial input in remedial design and monitoring to ensure that appropriate information is being utilized. In addition we will be evaluating if there are appropriate strategies to address background contamination as either part of the remedy or larger Willamette River Toxics Reduction strategy.
- **Engagement in the Remedial Design (RD)** – A limited amount of planning and discussions may occur during this grant period for specific sites that are prepared to move forward earlier in the process. The Yakama Nation will provide meaningful and substantial involvement in remedial design discussions to ensure greater protection of YN treaty resources.
- **Determine Elements for Pre-design and Remedial Design Sampling, Baseline Sampling, During Construction Monitoring, Operation & Maintenance Monitoring, and Long-term Performance and Compliance Monitoring** – Portland Harbor is a particularly complex Site. Although the remedial investigation and feasibility study (RI/FS) were finalized in 2016, there are data gaps in the understanding of current Site conditions, background, and downstream impacts. The Portland Harbor ROD was unclear about how protectiveness will be measured and attained for each media. Therefore, it is critical that elements such as points of compliances, statistical requirements, and design criteria by media are established such that they are truly protective of all receptors. The pre-design and baseline monitoring plan must have clear objectives and be designed to adequately capture baseline conditions so that a meaningful comparison and evaluation of long-term cleanup progress, protectiveness, and effectiveness can be done. In addition, during construction monitoring and long-term operation and maintenance are key to preventing re-contamination. The Yakama Nation will provide meaningful and substantial technical input into remedial design and monitoring plans to in an effort to develop plans that evaluate and protect Treaty resources.

- **Engage in Upland Source Control** – The 2001 MOU bifurcates the Site into in-river and upland portions with EPA designated as the lead agency for in-river cleanup and ODEQ designated as the lead agency for upland source control. The Upland Operable Unit Joint Source Control Strategy addresses the uplands on an individual upland site, media, and operational area basis. The Yakama Nation has concerns about the adequacy of upland source control. Unless the upland sources are fully understood and the source control decisions are integrated with the in water remedy, our goal of a healthy Willamette and Lower Columbia River will not be achieved. There are multiple sites with planned source control evaluations and decisions pending. The Yakama Nation is developing a relationship with Oregon Department of Environmental Quality (ODEQ) so that we can provide meaningful and substantial involvement in the remedial design discussions and monitoring needs to both EPA and ODEQ on determining the effectiveness of upland source control at sites surrounding Portland Harbor and impacting the in-water remedy. The Yakama Nation plans to focus on the technical review of high priority sites and provide comments on source control decisions to improve protectiveness of treaty resources, as this work is critical and should be completed prior to the implementation of the ROD for the in-water activities.

WORK PLAN ACTIVITIES

Detailed scope of work, deliverables, associated FTEs, and budget estimates per task.

Table 2. Work Plan Tasks and Activities

Task	Anticipated Outputs/deliverables	Due Date
ALL	These activities are being conducted by the Yakama Nation to ensure meaningful and substantial involvement in remedial design discussions and monitoring needs with EPA at the PH Superfund Site; as supported by 40 CFR § 35.6245 and are consistent with the activities described in section 121(f)(1) of CERCLA, as amended, and in subpart F of the NCP (40 CFR part 300). Furthermore, these activities and associated costs are not inconsistent with the NCP.	
1. ROD Implementation		Ongoing
1A. Monitoring Plan	<ul style="list-style-type: none"> Continue to develop YN's framework for background, site, and downgradient LCR monitoring needs as it pertains to site contamination, based on new information Continue to establish data quality objectives for monitoring plans Engage the TCT in discussions regarding data gaps in the understanding of current Site conditions, background, and downstream impacts Participate in discussions regarding pre-design and baseline sampling concepts Ensure that monitoring plans provides appropriate data to verify that cleanup goals are being accomplished within given timeframes Present monitoring plan information to YN's upper management and Tribal Council; prep for any management or policy level meetings needed to address concerns Provide YN's monitoring plan information to members of the tribal community, general community, media, NGOs, or others to ensure greater collaboration with interested parties 	Ongoing, as key draft documents are provided by EPA and PRPs
Budget: \$70,596	FTEs estimated: 0.04 Project Planner (Rose Longoria) 0.10 Engineer (Laura Shira) 0.15 Toxicologist (Bob Dexter) 0.09 Technical Lead (McClure Tosch) 0.03 Information Specialist (TBD) 0.10 Remediation Specialist (TBD) 0.00 Bookkeeper (Jeanna Hernandez, various) 0.00 Administrative Assistant (Nathan Capetillo, various)	
1B. Source Control	<ul style="list-style-type: none"> Provide review and technical comment on source control measures, monitoring, evaluations, decisions, and other milestones for individual upland sites Engage in discussions to determine the effectiveness of upland source control at sites surrounding Portland Harbor and impacting the in-water remedy Initiate policy level discussions, agreements, and documentation that source control monitoring is providing clear and definitive 	Ongoing, as key draft documents are provided by EPA and PRPs

	<p>evidence that Yakama Nation Treaty resources are being protected</p> <ul style="list-style-type: none"> • Present source control information to YN's upper management and Tribal Council; prep for any management or policy level meetings needed to address concerns • Provide source control information to members of the tribal community, general community, media, NGOs, or others to ensure greater collaboration with interested parties 	
Budget: \$195,158	<p>FTEs estimated:</p> <p>0.04 Project Planner (Rose Longoria) 0.34 Engineer (Laura Shira) 0.11 Toxicologist (Bob Dexter) 0.07 Technical Lead (McClure Tosch) 0.15 Information Specialist (TBD) 0.34 Remediation Specialist (TBD) 0.00 Bookkeeper (Jeanna Hernandez, various) 0.00 Administrative Assistant (Nathan Capetillo, various) \$61,250 Technical Service Contract</p>	
1C. Remedial Design	<ul style="list-style-type: none"> • Engage with EPA and members of TCT to outline a communications matrix; determine technical specifications for cleanup remedies and technologies; and determine the RD project schedule (development of RD Plans) • Discuss and understand post construction goals and activities to inform RD considerations • Determine the framework for implementation (EPA, ODEQ, YN roles) • Present RD progress information to YN's upper management and TC; prep for any management or policy level meetings needed to address concerns • Provide RD progress information to members of the tribal community, general community, media, NGOs, or others to ensure greater collaboration with interested parties 	Ongoing, as key draft documents are provided by EPA and PRPs
Budget: \$60,454	<p>FTEs estimated:</p> <p>0.04 Project Planner (Rose Longoria) 0.10 Engineer (Laura Shira) 0.06 Toxicologist (Bob Dexter) 0.00 Technical Lead (McClure Tosch) 0.04 Information Specialist (TBD) 0.10 Remediation Specialist (TBD) 0.00 Bookkeeper (Jeanna Hernandez, various) 0.00 Administrative Assistant (Nathan Capetillo, various) \$15,000 Technical Service Contract</p>	

2. Project Management	<ul style="list-style-type: none"> • Manage communications with leadership and management • Engage individual PRPs in funding negotiations • Conduct internal coordination meetings Legal, Technical, Policy, and Cultural • Development of personnel, hiring additional staff resources • Information sharing around ESA consultations and mitigation requirements with natural resource agencies (FWS, NOAA, etc.) • Prep for and participate in EPA MOU Meetings • Prep Tribal Council for Government to Government Meetings, as requested • Manage Consultations between Tribal Council and Governor Brown's Office • Participate in Technical Communication Team (TCT) meetings • Collaboration and information sharing about cleanup with stakeholder organizations • Community outreach for developing awareness • Deliver quarterly reports within 30 days after the end of each quarter and complete drawdowns after the report has been delivered (Deliver final closeout report within 90 days after the end of the quarter, if no additional funding granted. If grant is continued a quarterly report will be delivered within 30 days) • Conduct travel associated with work tasks (30 trips @ \$262 ea.) • Manage operating supplies: office supplies, printing & binding, operating • Maintain office rental lease, GSA rental, copier rental, and personnel training 	Ongoing with quarterly reports to EPA
Budget: \$238,792	FTEs estimated: 0.42 Project Planner (Rose Longoria) 0.10 Engineer (Laura Shira) 0.00 Toxicologist (Bob Dexter) 0.00 Technical Lead (McClure Tosch) 0.10 Information Specialist (TBD) 0.00 Remediation Specialist (TBD) 0.60 Bookkeeper (Jeanna Hernandez, various) 0.30 Administrative Assistant (Nathan Capetillo, various) \$6,000 Public Relations Contract \$37,500 Legal Contract Fringe, Supplies, Other, Travel	

OTHER ACTIVITIES

As funding participation agreements are negotiated with PRPs, funding would be shifted to those PRPs for related response work and EPA would be notified.

BUDGET

EPA has committed to maintain tribal involvement with Site activities and has agreed to fund Yakama Nation's participation in response activities related to the Site. The \$565,000 budget is for the Portland Harbor response activities detailed above. As agreed upon with EPA, we will engage in regular check-ins with EPA on burn rates and, based on funding needs and activity level, request a supplemental budget in approximately the June-July

2018 time period.

FEDERAL CLASS CATEGORIES	TOTAL
a. Personnel	\$250,467
b. Fringe Benefits 29.07%	\$72,811
c. Travel	\$9,825
d. Equipment	\$0
e. Supplies	\$7,159
f. Contractual	\$119,750
g. Construction	\$0
h. Other	\$16,500
i. Total Direct Charges	\$476,512
j. Indirect Charges 18.57%	\$88,488
TOTALS	\$565,000